

may be identified and located. The request should include the name, address and telephone number of the requester. In order to enable the Office of Inspector General to comply with the time limitations set forth in §2002.17, both the envelope containing a written request and the letter itself should clearly indicate that the subject is a Freedom of Information Act request.

(c) The request must be accompanied by the fee or an offer to pay the fee as determined in §2002.7. At its discretion, the Office of Inspector General may require advance payment in accordance with §2002.15.

(d) Copies of available records will be made as promptly as possible. Copying service will be limited to not more than 10 copies of any single page. Records which are published or available for sale need not be reproduced.

[49 FR 11165, Mar. 26, 1984, as amended at 53 FR 37550 and 37552, Sept. 27, 1988; 59 FR 14097, Mar. 25, 1994]

§2002.5 Records produced upon request when reasonably described.

(a) When a request is made which reasonably describes a record of the Office of Inspector General (see §2002.3) which has been stored in the National Archives or other record center of the General Services Administration, the record will be requested by the Office of Inspector General if it otherwise would be available under this part.

(b) Every effort will be made to make a record in use by the staff of the Office of Inspector General available when requested, and such availability will be deferred only to the extent necessary to avoid serious interference with the business of the Office of Inspector General.

§2002.7 Fees.

(a) *Copies of records.* HUD will charge \$0.10 per page for copies of documents up to 11" × 14". For copies prepared by computer, such as tapes or printouts, HUD will charge the actual costs, including operator time, of production of the tape or printout. For other methods of reproduction or duplication, HUD will charge the actual direct costs of producing the document(s).

(b) *Manual searches for records.* Whenever feasible, HUD will charge at the

salary rate(s) (*i.e.*, basic pay plus 16 percent) of the employee(s) making the search. However, where a homogeneous class of personnel is used exclusively in a search (*e.g.*, all administrative/clerical, or all professional/executive), HUD will charge \$9.25 per hour for clerical time and \$18.50 per hour for professional time. Charges for search time less than a full hour will be billed by five-minute ($\frac{1}{12}$ of one hour) segments.

(c) *Computer searches for records.* HUD will charge at the actual direct cost of providing the service. This will include the cost of operating the central processing unit (CPU) for that portion of operating time that is directly attributable to searching for records responsive to a FOIA request and operator/programmer salary apportionable to the search.

(d) *Contract services.* HUD will contract with private sector sources to locate, reproduce and disseminate records in response to FOIA requests when that is the most efficient and least costly method. When doing so, however, HUD will ensure that the ultimate cost to the requester is no greater than it would be if HUD itself had performed these tasks. In no case will HUD contract out responsibilities which the FOIA provides that HUD alone may discharge, such as determining the applicability of an exemption, or determining whether to waive or reduce fees. HUD will ensure that when documents that would be responsive to a request are maintained for distribution by agencies operating statutory-based fee schedule programs such as the National Technical Information Service, HUD will inform requesters of the steps necessary to obtain records from those sources. Information provided routinely in the normal course of business will be provided at no charge.

(e) *Restrictions on assessing fees.* With the exception of requesters seeking documents for commercial use, HUD will provide the first 100 pages of duplication and the first two hours of search time without charge. For non-commercial use requesters, HUD will not begin to assess fees until after HUD has provided the free search and reproduction.

No charge will be assessed non-commercial use requesters when the search time and reproduction costs, over and above the free search time and reproduction allocation, totals no more than \$5.00. For commercial use requesters, no charge will be assessed when the search time, reproduction and review costs total no more than \$5.00. *Search time* in this context is based on *manual search*. To apply this term to searches made by computer, HUD will determine the hourly cost of operating the central processing unit and the operator's hourly salary plus 16 percent. When the cost of the search (including the operator time and the cost of operating the computer to process a request) equals the equivalent dollar amount of two hours of the salary of the person performing the search, *i.e.*, the operator, HUD will begin assessing charges for computer search.

(f) *Payment of fees.* Payment of fees under this section and under § 2002.11(a) shall be made in cash or by U.S. money order or by certified bank check payable to the Treasurer of the United States. The fees shall be sent to the organizational unit within HUD responding to the request.

(g) *Definitions.* As used in this subpart:

(1) *Direct costs* means those expenditures which HUD actually incurs in searching for and duplicating (and, in the case of commercial requesters, reviewing) documents to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored.

(2) *Search* includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. Such activity is distinguished from *review* of material in order to determine whether the material is exempt from disclosure.

(3) *Duplication* means the process of making a copy of a document necessary to respond to a FOIA request.

Such copies can take the form of paper copy, microform, audio-visual materials, or machine readable documentation (e.g., magnetic tape or disk), among others.

(4) *Review* means the process of examining a document located in response to a request that is for a commercial use to determine whether any portion of it may be withheld, excising portions to be withheld and otherwise preparing the document for release. *Review* does not include time spent resolving general legal or policy issues regarding the application of exemptions.

[53 FR 37550, Sept. 27, 1988]

§ 2002.9 Fees to be charged—categories of requesters.

There are four categories of FOIA requesters: Commercial use requesters; educational and non-commercial scientific institutions; representatives of the news media; and all other requesters. Specific levels of fees are prescribed for each of these categories:

(a) *Commercial use requesters.* (1) HUD will assess charges which recover the full direct costs of searching for, reviewing for release, and duplicating records sought for commercial use. Requesters must reasonably describe the records sought. Commercial use requesters are not entitled to two hours of free search time or 100 free pages of reproduction of documents.

(2) *Commercial use* refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, HUD must determine the use to which a requester will put the documents requested. Moreover, where HUD has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, HUD will seek additional clarification before assigning the request to a specific category.

(b) *Educational and non-commercial scientific institution requesters.* (1) HUD will provide documents to educational and non-commercial scientific institutions for the cost of reproduction